

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Craig Anderson	Team: Squad #7	CCRB Case #: 201602008	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/09/2016 9:00 PM	Location of Incident: [REDACTED]	Precinct: 75	18 Mo. SOL 9/9/2017	EO SOL 9/9/2017	
Date/Time CV Reported Thu, 03/10/2016 11:25 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 03/10/2016 11:25 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. An officer			Unknown
2. SGT Henry Daverin	03631	945645	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Walsh	23571	951413	075 PCT
2. POM Tony Cuoco	17359	950261	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: At Stanley Avenue and Ashford Street in Brooklyn, an officer stopped § 87(2)(b)	[REDACTED]
B. An officer	Force: At Stanley Avenue and Ashford Street in Brooklyn, an officer used physical force against § 87(2)(b)	[REDACTED]
C. An officer	Off. Language: At Stanley Avenue and Ashford Street in Brooklyn, an officer made remarks to § 87(2)(b) based upon race.	[REDACTED]
D. An officer	Abuse: At Stanley Avenue and Ashford Street in Brooklyn, an officer stopped § 87(2)(b)	[REDACTED]
E. An officer	Off. Language: At Stanley Avenue and Ashford Street in Brooklyn, an officer made remarks to § 87(2)(b) based upon race.	[REDACTED]
F. SGT Henry Daverin	Discourtesy: At the 75th Precinct stationhouse, Sergeant Henry Daverin spoke discourteously to § 87(2)(b)	[REDACTED]

### Case Summary

On March 9, 2016 at approximately 9 p.m., § 87(2)(b) and several of their friends went to the 797 Deli Grocery at 797 Stanley Avenue in Brooklyn. Shots were fired down the block shortly before this, and numerous police officers responded to the area, including the 75<sup>th</sup> Precinct Anti-crime team, consisting of Sgt. Henry Daverin, PO Christopher Walsh, and PO Tony Cuoco. While § 87(2)(b) was inside the deli, an unidentified officer grabbed him by the hoodie and allegedly “threw” him toward the exit (**Allegations A and B**). The officer allegedly referred to § 87(2)(b) as “boy” (**Allegation C**). Outside the store, he pushed § 87(2)(b) against the wall (**Allegation B, continued**). An unidentified officer also stopped § 87(2)(b) and allegedly referred to him as “boy” (**Allegations D and E**).

§ 87(2)(b) and § 87(2)(b) were transported to the 75<sup>th</sup> Precinct stationhouse. During questioning at the stationhouse, Sgt. Daverin allegedly called § 87(2)(b) an “asshole” (**Allegation F**). § 87(2)(b) was released that night with summonses for § 87(2)(b), issued by PO Walsh (see Board Review 01 and 02). PO Walsh issued § 87(2)(b) a summons for § 87(2)(b), and he was taken to a judge for an open warrant (see Board Review 03).

Efforts to identify the subject officer for Allegations A through E caused this investigation to exceed the 90-day benchmark.

A TARU camera across the street from the deli captured the incident (see Board Review 04).



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### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- As of September 9, 2016, no notice of claim has been filed in relation to this incident (see Board Review 05).
- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] (see Board Review 06).
- § 87(2)(b) has no criminal convictions in the City of New York. An Office of Court Administration search showed no record of his summons from this incident (see Board Review 07).

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint by § 87(2)(b) or § 87(2)(b) (see Board Review 08).
- Sgt. Daverin has been a member of the NYPD for eight years. There are 16 other CCRB complaints against him containing 43 allegations. In one case, allegations of a vehicle search, frisk and refusal to provide name and shield number were substantiated. The

CCRB recommended Command Discipline A; the NYPD has not reached a disposition. Three of Sgt. Daverin's other complaints contain allegations of discourteous language; none of those allegations were substantiated.

### **Potential Issues**

- One witness, § 87(2)(b) was contacted and confirmed that he was present, but recalled no details about the incident (see Board Review 09). § 87(2)(b) did not know the full names or contact information for any of his other companions. Thus, no civilian witness testimony was available.
- Attempts to obtain security footage from 797 Deli Grocery were unsuccessful.

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

§ 87(2)(b) described the officer who stopped him inside the deli as a uniformed white man who was 6' tall, in his 30s, with an average build. A ski mask obscured the officer's hair. § 87(2)(b) described this officer as a white man in plainclothes who was 5'10" tall, had black hair, and had lots of arm tattoos. The TARU footage showed that this officer appeared to be a bald man similar in height to § 87(2)(b) who is 5'11". He was in a uniform with long sleeves. Due to the officer's distance from the camera, it was not possible to discern other details of his appearance from the video.

Sgt. Daverin, PO Walsh, and PO Cuoco were shown the TARU footage and denied recognizing the officer who removed § 87(2)(b) from the store. While the Anti-crime team transported § 87(2)(b) and § 87(2)(b) to the stationhouse, the officer who removed § 87(2)(b) from the store appeared to be in uniform, meaning that he was not a part of the Anti-crime team, which worked in plainclothes.

The Event Information shows that officers from the 75<sup>th</sup> Precinct and Public Service Area 2 responded to the report of shots fired (see Board Review 10). The investigation obtained roll calls for both commands (see Board Review 11 and 12) and, based on the roll calls and Event Information, obtained photos and memo books for numerous officers who responded to the incident location (see Board Review 13 through 25). None of the photos were a clear match for the subject officer and, while several officers had entries about the shooting in their memo books, none had entries specifically describing any interaction with § 87(2)(b) or § 87(2)(b). Additionally, given that a large number of officers typically respond to shootings, and the TARU video depicted at least seven officers outside the deli alone, with several other police vehicles seen driving past, it is likely that numerous officers who responded were not listed on the Event Information.

As the investigation was unable to identify the subject officer after reviewing all available evidence and testimony, **Allegations A through E are pleaded against "an officer."**

§ 87(2)(b) said the officer who called him an "asshole" at the stationhouse was the same plainclothes sergeant who handcuffed him at the scene of his arrest. Sgt. Daverin acknowledged that he handcuffed § 87(2)(b) which is corroborated by the TARU video. Therefore, **Allegation F is pleaded against Sgt. Daverin.**

**Allegations not pleaded**

- **Chokehold:** In his online complaint, § 87(2)(b) wrote that officers “choked” him (see Board Review 26). In his in-person interview, however, § 87(2)(b) did not describe any force resembling a chokehold and denied that his breathing was affected by the officer’s actions.
- **Search:** It is undisputed that Sgt. Daverin searched § 87(2)(b) outside the deli. No search allegation is pleaded because this search was incident to § 87(2)(b)’s arrest.

**Allegation A – Abuse of Authority: At Stanley Avenue and Ashford Street in Brooklyn, an officer stopped § 87(2)(b)**

**Allegation B – Force: At Stanley Avenue and Ashford Street in Brooklyn, an officer used physical force against § 87(2)(b)**

**Allegation C – Offensive Language: At Stanley Avenue and Ashford Street in Brooklyn, an officer made remarks to § 87(2)(b) based upon race.**

**Allegation D – Abuse of Authority: At Stanley Avenue and Ashford Street in Brooklyn, an officer stopped § 87(2)(b)**

**Allegation E – Offensive Language: At Stanley Avenue and Ashford Street in Brooklyn, an officer made remarks to § 87(2)(b) based upon race.**

§ 87(2)(b) said he went inside the deli at 797 Stanley Avenue to purchase food while his friends waited outside. An unidentified officer, described previously, approached him and told him to come outside. When § 87(2)(b) continued his efforts to purchase food, the officer grabbed him by his hoodie and “threw” him toward the door. § 87(2)(b) told the officer, “Boy, get off me, please.” The officer allegedly responded, “Stop calling me boy. You want me to call you boy, boy?” § 87(2)(b) believed this statement was racially-motivated. The officer repeatedly pushed § 87(2)(b) (see Board Review 27).

§ 87(2)(b) said in a brief phone statement that the same officer who brought § 87(2)(b) out of the store later stopped and handcuffed § 87(2)(b) “for no reason.” He alleged that this officer repeatedly called both him and § 87(2)(b) “boy” (see Board Review 28).

The video footage showed that a uniformed officer removed § 87(2)(b) from the deli, after which he pushed him on the shoulders to put § 87(2)(b) against the wall (see Board Review 04).

Three officers, including Sgt. Daverin, PO Walsh and PO Tony Cuoco, who were confirmed to be at the incident, were interviewed. They generally had limited recollection of the incident. PO Walsh said § 87(2)(b) was “being very loud and threatening,” but could not describe this in more detail (see Board Review 29). Sgt. Daverin said the group was “impeding pedestrian traffic” and “utilizing unreasonable noise” and his intent was to disperse the group. He denied that they were suspected in the shooting (see Board Review 30). PO Cuoco was unable to explain why they approached § 87(2)(b)’s group, other than their proximity to the location of a shooting (see Board Review 31). All three officers denied knowing which officer brought § 87(2)(b) out of the store, and all denied hearing any officer call him “boy.”

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(b) [REDACTED] provided a brief phone statement about the incident and scheduled an in-person interview. He failed to appear for this interview and did not respond to repeated contact attempts afterward. § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation F – Discourtesy: At the 75<sup>th</sup> Precinct stationhouse, Sergeant Henry Daverin spoke discourteously to § 87(2)(b) [REDACTED]**

§ 87(2)(b) [REDACTED] said that Sgt. Daverin questioned him about guns in the stationhouse. During the questioning, he told § 87(2)(b) [REDACTED] “You were an asshole in the streets. You’re not an asshole now.” Neither § 87(2)(b) [REDACTED] nor any other civilian was present at that time.

Sgt. Daverin did not recall asking § 87(2)(b) [REDACTED] questions in the stationhouse and denied making the above remark. PO Walsh and PO Cuoco also did not recall whether § 87(2)(b) [REDACTED] was questioned and denied hearing Sgt. Daverin make the above remarks.

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]

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Squad: 7

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date